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3 Attorneys for Plaintiff  
4 TABITHA TOTAH

5  
6 UNITED STATES DISTRICT COURT

7 NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION

8  
9 TABITHA TOTAH,

10 Case No.: CV 10-5956 CW

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12 Plaintiff(s),

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**STIPULATION TO DISMISS THE SECOND  
CAUSE OF ACTION FOR FRAUD AND THE  
THIRD CAUSE OF ACTION FOR  
INTENTIONAL INFILCTION OF  
EMOTIONAL DISTRESS WITH  
PREJUDICE; ORDER REGARDING SAME**

v.  
DONALD BIES and Does 1 – 100 Inclusive,

Complaint filed: October 18, 2010

Defendant(s).

Plaintiff TABITHA TOTAH (Plaintiff) and Defendant DONALD BIES

1 (Defendant), by and through their counsel of record in this action, hereby stipulate as  
2 follows:

4 WHEREAS, on October 18, 2010, Plaintiff filed a Complaint in the Superior  
5 Court of California in and for the County of San Francisco entitled Tabitha Totah v. Donald  
6 Bies and Does 1-100 Inclusive (Case No. CGC-10-504699);

8 WHEREAS, on or about December 29, 2010, Defendant Donald Bies removed  
9 this case to the United States District Court for the Northern District of California.

11 WHEREAS, the Plaintiff and Defendant, through their respective undersigned  
12 counsel of record, hereby agree to dismiss with prejudice the Second Cause of Action for  
13 Fraud and the Third Cause of Action for Intentional Infliction of Emotional Distress, as pled  
14 in Plaintiff's Complaint;

16 **NOW, THEREFORE IT IS HEREBY STIPULATED AND AGREED** by and  
17 between the parties, through their respective undersigned attorneys of record, that the  
18 Plaintiff's Second Cause of Action for Fraud and the Plaintiff's Third Cause of Action for

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1 Intentional Infliction of Emotional Distress, as pled in Plaintiff's Complaint, are hereby  
2 DISMISSED WITH PREJUDICE;

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4 **IT IS SO STIPULATED.**

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7 Dated: January 14, 2011

LAW OFFICES OF JOSEPH L. ALIOTO &  
ANGELA ALIOTO and THE LAW OFFICES  
OF JODY MEISEL  
A Professional Corporation

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12 Dated: January 14, 2011

13 By: \_\_\_\_\_ /s/  
14 Jody Meisel  
15 Attorneys for Plaintiff  
16 TABITHA TOTAH  
17 MILLER LAW GROUP  
18 A Professional Corporation

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28 By: \_\_\_\_\_ /s/  
Janine S. Simerly  
Attorneys for Defendant  
DONALD BIES

1 **ORDER**  
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3 Having reviewed the Stipulation executed by and between the parties hereto,  
4 through their respective attorneys of record, it is hereby ordered that the Plaintiff's Second  
5 Cause of Action for Fraud and the Plaintiff's Third Cause of Action for Intentional Infliction of  
6 Emotional Distress, as pled in Plaintiff's Complaint, are hereby DISMISSED WITH  
7 PREJUDICE.

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9 **IT IS SO ORDERED.**

10 Dated: January 14, 2011

11 By:   
12 HONORABLE CLAUDIA WILKEN  
13 UNITED STATES DISTRICT JUDGE

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MILLER LAW GROUP  
A PROFESSIONAL CORPORATION  
SAN FRANCISCO, CALIFORNIA

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